IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION

WRIT PETITION NO.2909 OF 2007

M/s.Radha Kanhaiya Textile Processors .. Petitioners
V/s
Union of India & Ors. .. Respondents

WITH

WRIT PETITION NO.2910 OF 2007

M/s.Mahesh Textile Processors .. Petitioners
V/s
Union of India & Anr. .. Respondents

WITH

WRIT PETITION NO.2922 OF 2007

The Swastik Dyeing & Bleaching Factory .. Petitioners
V/s
Union of India & Anr. .. Respondents

WITH

WRIT PETITION NO.2926 OF 2007

M/s.Amit Weaving .. Petitioners
V/s
Union of India & Anr. .. **Respondents**

WITH

WRIT PETITION NO.2927 OF 2007

Unirose Textile Processors Pvt.Ltd. .. Petitioners
V/s
Union of India & Anr. .. Respondents

WITH

WRIT PETITION NO.2928 OF 2007

M/s.Shantinath Synthetics Pvt.Ltd. .. Petitioners
V/s
Union of India & Anr. .. **Respondents**

WITH

WRIT PETITION NO.2929 OF 2007

M/s.Shree Balaji Dyeing& Bleaching Mills.. Petitioners
V/s
Union of India & Anr. .. Respondents

WITH

WRIT PETITION NO.2930 OF 2007

M/s.Radha Mohan Processors .. Petitioners
V/s
Union of India & Anr. .. Respondents

WITH

WRIT PETITION NO.2951 OF 2007

Manpasand Textile Processors Pvt.Ltd. .. Petitioners

V/s
Union of India & Anr. .. Respondents

WITH

WRIT PETITION NO.2953 OF 2007

M/s.Arihant Yarn Processors Pvt.Ltd. .. Petitioners
V/s
Union of India & Ors. .. Respondents

WITH

WRIT PETITION NO.2959 OF 2007

The Yashwant Co-op.Processors Ltd. .. Petitioners
V/s
Union of India & Ors. .. Respondents

WITH

WRIT PETITION NO.2960 OF 2007

Jubilee Fabrics Pvt.Ltd. .. Petitioners
V/s
Union of India & Anr. .. Respondents

Mr.H.C.Daruwala i/by M/s.B.K.Barve & Co.for the Petitioners.

Mrs.S.V.Bharucha i/by Mr.H.P.Chaturvedi for Respondent No.1 - Union of India.

Mr.V.R.Palav i/by M/s.Amarchand Mangaldas for Respondent No.2.

Mr.V.Sonpal, AGP for Respondent No.3.

CORAM : DR.S.RADHAKRISHNAN & V.C.DAGA, JJ.

DATE : 18th April, 2007.

P.C.:

1. Perused all Petitions. Heard the learned Counsel for the parties appearing in all these petitions.

2. By these petitions the Petitioners are challenging the orders dated 28th March, 2005 passed by the Presiding Officer of the Textile Committee Cess Appellate Tribunal in the Appeals preferred by the

Petitioners against the demand notices issued by the Textile Committee for recovery of cess.

3. The Tribunal has relied upon its own earlier judgment dated 30th April, 2004 and has given detailed reasonings fully justifying the Petitioners liabilities to pay the requisite cess.

4. The present Petitions have been lodged in this Court on 10th April, 2007 against the impugned orders dated 28th March, 2005 when the impugned order was put in execution by the Respondents. There is gross delay in filing the Petitions. There is no whisper in the petitions justifying or giving any explanation about the delay caused in filing the petitions.

Delay in moving the petition is also relevant factor for which the Court may refuse to entertain writ petition for granting relief. The Apex Court in the case of **Kamini Kumar Das Chowdhury V/s.State of West Bengal - AIR 1972 SC 2060** held that "it is imperative, if the petitioner wants to invoke extraordinary remedy available; under Article 226 of the Constitution that he should come to the Court at the reasonable possible opportunity." In **J.N.Maltiar V/s.State of Bihar - AIR 1973 SC 1343,** Apex Court held that where the petitioner was informed that his service was terminated for misconduct, and spent about 3 years in sending memorials

to the Government, a remedy not provided by law. The High Court was justified in dismissing the writ petition on the ground of delay. The party seeking intervention and aid of the Court under Article 226 of the Constitution for enforcement of his rights should exercise due diligence and approach the Court within a reasonable time after cause of action arises and if there has been undue delay or laches on his part the Court has undoubted discretion to deny the relief.

In **Roshanlal V/s. International Airport Authority - AIR 1981 SC 597**, where writ petition was filed in 1978 challenging the validity of appointment made in the year 1975, the Supreme Court refused to reopen the question on the ground that it would not be justified in doing so several years after the appointment. In **Hari Singh V/s.State of U.P. - AIR 1984 SC 1020,** where there was a delay of two and half years, from the date of publication of the notification under Sections 4 and 17(4) of the Land Acquisition Act, the petition was rejected on the ground of laches. In **Abhinavodhanarda Villya Sankara Vihari V/s.P.R.Reddy - AIR 1986 SC 1511,** where there was delay of four and a half years was not condoned, writ petition was filed on the technical plea that no notice has been served in the appeal filed by the State before the Tribunal. In **Chandra Bhusan V/s.Dy.Director Consolidation - AIR 1967 SC 1272,** it was held that the aggrieved party should have reasonable

time within which to move the High Court. The Allahabad High Court consistently laid down the practice that the period of 90 days which is the period fixed for appeals to the High Court from the judgment of the lower Court should be taken as the period for application for the issue of a writ certiorari. It was held that in the absence of a statutory Rule, the period prescribed for preferring an appeal to the High Court is a rough measure.

5. In view thereof, we are not inclined to exercise our discretionary jurisdiction. Hence the Petitions are dismissed.

(V.C.DAGA, J.) **(DR.S.RADHAKRISHNAN,J.)**